



CLOSED CASE SUMMARY

ISSUED DATE: AUGUST 14, 2023

FROM: DIRECTOR GINO BETTS 
OFFICE OF POLICE ACCOUNTABILITY

CASE NUMBER: 2023OPA-0076

Allegations of Misconduct & Director's Findings

Named Employee #1

Allegation(s):		Director's Findings
# 1	15.410 - Domestic Violence Investigation, 15.410-POL-2 Officers Make Arrests with Probable Cause	Not Sustained - Lawful and Proper (Expedited)

Named Employee #2

Allegation(s):		Director's Findings
# 1	15.410 - Domestic Violence Investigation, 15.410-POL-2 Officers Make Arrests with Probable Cause	Not Sustained - Lawful and Proper (Expedited)

This Closed Case Summary (CCS) represents the opinion of the OPA Director regarding the misconduct alleged and therefore sections are written in the first person.

EXECUTIVE SUMMARY:

Named Employee #1 (NE#1) and Named Employee #2 (NE#2) responded to a domestic violence assault call. The Complainant alleged that the named employees lacked probable cause for his arrest.

ADMINISTRATIVE NOTE:

This case was approved for Expedited Investigation. That means OPA, with the Office of Inspector General's agreement, believed it could issue recommended findings based solely on its intake investigation without interviewing the involved employees. As such, OPA did not interview the involved employees in this case. OPA also made several unsuccessful attempts to interview the Complainant. However, the Complainant left several voicemails with OPA detailing his complaint.

SUMMARY OF INVESTIGATION:

A. OPA Complaint

The Complainant alleged that the named employees attacked and unjustifiably arrested him after an altercation with his parents. The Complainant further alleged that he was threatened with a Taser.



B. Computer-Aided Dispatch (CAD) Information

OPA reviewed the CAD information related to the incident. CAD information includes information provided by police officers or 9-1-1 dispatchers including the times officers are dispatched to a call or substantive updates. The initial dispatch note was, "SON HAVING MENTAL BREAKDOWN, SCREAMING AND YELLING, PUSHING FAMILY MEMBERS, DIAGNOSED WITH BIPOLAR AND AUTISM, NO INJS/WPNS SEEN." The named employees were dispatched at 8:06 PM and arrived at the Complainant's address at 8:13 PM. The call was cleared and categorized as a "domestic violence/assault (arrest mandatory)."

C. Body-Worn Video (BWV)

BWV captured NE#1 and NE#2's investigation and the Complainant's arrest. It showed:

NE#1 and NE#2 arrived and separated the parties. NE#1 interviewed the Complainant while NE#2 interviewed the Complainant's parents. The Complainant's mother told NE#2 that she was afraid the Complainant would hurt her husband. The Complainant's father told NE#2 that the Complainant cornered him and grabbed his wrists. The Complainant's father also feared that the Complainant would hurt him. The Complainant's father said he tried to get away from the Complainant, who followed and shoved him. He stated that the Complainant was "completely out of control." NE#2 discussed his prior responses to calls involving the parties and stated he would arrest the Complainant. The Complainant's parents wanted the Complainant arrested.

The Complainant told NE#1 that his father "got aggressive" with him and threw a paper bag at him. The Complainant stated he restrained his father but did not hurt him.

NE#2 questioned the Complainant further. The Complainant repeated his claim that his father was "aggressive" and then apologized. The Complainant told NE#2 he was going to bed and walked away. NE#2 grabbed the Complainant's arm and told him he was under arrest. The Complainant refused to give his arms to the named employees. NE#1 and NE#2 struggled for several minutes to handcuff the Complainant. During the struggle, NE#2 drew his Taser, activated the "drive-stun" mode,¹ and warned the Complainant that he would be Tased if he continued to resist. Eventually, additional officers arrived and helped take the Complainant into custody.

D. Incident Reports

OPA reviewed the related incident report, which was consistent with BWV. Additionally, NE#1 wrote that he was familiar with the Complainant, who had a history of domestic violence. NE#1 also knew the Complainant was a former wrestler capable of injuring his father.

¹ "Drive-stun" mode functions like a conventional stun gun. NE#1 displayed the Taser's electrical arc to the Complainant.



ANALYSIS AND CONCLUSIONS:

Named Employee #1 - Allegation #1

15.410 - Domestic Violence Investigation, 15.410-POL-2 Officers Make Arrests with Probable Cause

The Complainant alleged that NE#1 unlawfully arrested him.

Officers must make arrests when probable cause exists during a domestic violence investigation. SPD Policy 15.410-POL-2. RCW 10.31.100(2)(c) defines factors, that when present, requiring mandatory arrest, like “any physical action . . . which was intended to cause another person to reasonably fear imminent serious bodily injury or death.” It further instructs that, “in making this determination of the primary physical aggressor the officer will try to consider . . . the history of domestic violence of each person involved, including whether the conduct was part of an ongoing pattern of abuse.” The policy also sets forth instances when officers may make discretionary domestic violence arrests.

Here, NE#1 and NE#2 conducted a domestic violence investigation where the Complainant had a history of domestic violence. The victim—the Complainant’s father—alleged that the Complainant cornered him, shoved him, and grabbed his wrists. The victim told NE#2 that the Complainant placed him in imminent fear of injury, which his wife corroborated. The Complainant admitted to grabbing his father’s wrists but said he did not intend to harm his father. The named employees established probable cause to arrest the Complainant for assault in the fourth degree, arguably a mandatory arrest under Washington State law and SPD policy.

Accordingly, OPA recommends this allegation be Not Sustained – Lawful and Proper (Expedited)

Recommended Finding: **Not Sustained - Lawful and Proper (Expedited)**

Named Employee #1 - Allegation #2

15.410 - Domestic Violence Investigation, 15.410-POL-2 Officers Make Arrests with Probable Cause

For the reasons at Named Employee #1 – Allegation #1, OPA recommends this allegation be Not Sustained – Lawful and Proper (Expedited)

Recommended Finding: **Not Sustained - Lawful and Proper (Expedited)**